United Nations S/2002/435

Security Council

Distr.: General
17 April 2002

Original: English

Letter dated 17 April 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Benin, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: French]

Note verbale dated 17 April 2002 from the Permanent Mission of Benin to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Ministry of Foreign Affairs and African Integration of Benin has the honour to transmit herewith the report of the Republic of Benin on measures adopted by its competent agencies in the fight against terrorism, pursuant to Security Council resolution 1373 (2001) of 28 September 2001 (see enclosure).

Enclosure

Report submitted by the Republic of Benin to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

The attacks of 11 September 2001 on various strategic targets in the United States of America have shaken the world and plunged the entire international community into a state of consternation and terror at the resurgence of a phenomenon of indescribable cruelty.

The various reactions of sympathy and solidarity from across the globe indicates, if ever there was need, a broad convergence of views in the condemnation of the barbarism that has taken place and on the need for an appropriate world instrument to identify, track down, condemn and suppress terrorism, namely a global coalition with a firm determination to rid our planet of this plague on human civilization.

The Republic of Benin has experienced international terrorism dating back to the sad and now historic date of 16 January 1977, when a band of vicious armed mercenaries committed an act of armed aggression against the sovereignty of the State of Benin. The history of counter-terrorism activity in Benin goes back to that tragic event. After having heroically repelled that fearsome act of aggression, Benin has waged and continues to wage a campaign in international forums aimed at the elimination of all forms of violence perpetrated against individuals or States for whatever motives.

Benin believes that terrorism and related mercenary acts represent a real challenge to the entire international community in the sense that they deny peoples, States and individuals their inalienable rights to self-expression and peace.

Profoundly concerned at the resurgence of terrorism and the possible impact of the events of 11 September on the future of our whole planet, Benin has since then been arguing in favour of strict political, economic, legal and diplomatic measures to prevent and combat this scourge effectively in all its manifestations and in its deep roots.

Paragraph 1

(a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

Since the attacks of 11 September 2001 and the adoption of resolution 1373 (2001), the conditions for opening a bank account based on the good character or moral standing of a client (presentation of a court record) have received special attention.

In addition, the criminal investigation department conducts investigations and monitors the financial transactions of persons who are reported to be suspects.

(b) What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The provision or collection of funds with the intention that the funds should be used in order to carry out terrorist acts constitutes an offence in Benin since it is considered to be a matter of criminal association or conspiracy.

The penalty for this offence is from 5 to 10 years' rigorous imprisonment.

(c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Accounts and assets held in banks and financial institutions may be frozen through administrative measures or in execution of a court order. There are examples of steps taken to freeze corporate accounts by a judicial decision.

(d) What measures exist to prohibit the activities listed in this subparagraph?

There is no specific legislation prohibiting the provision of funds or economic resources, but these activities are prosecuted in the context of the suppression of criminal association. Incidentally, the existing Penal Code prohibits the laundering of funds derived from trafficking in drugs.

A bill relating to the Penal Code is being considered by the National Assembly. It provides specific measures for the further suppression of terrorist activities.

Paragraph 2

(a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit: (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Positive law in Benin does not provide for specific measures for the suppression of terrorism. Terrorist acts may, where necessary, be dealt with only through the prosecution of standard offences related to acts of terrorism, such as premeditated culpable homicide (article 295 et seq.), criminal association (article 265 et seq.), kidnapping (article 34 et seq.), aggravated assault (article 304 et seq.), illegal possession of firearms, etc. ... which are provided for and punishable under the Penal Code currently in force in Benin.

In order to remedy this omission and in accordance with its obligations under the United Nations Convention against terrorism, the Republic of Benin has introduced specific provisions to suppress terrorism in the current process of reform of the Penal Code.

Thus, Volume III of the bill, Title I, Chapter I, Section 2, paragraph 2, is devoted exclusively to the suppression of terrorism, which it defines in articles 90 and 91. The penalties incurred are specified in articles 92 to 94.

Moreover, the provisions are also intended to curb related offences such as those committed by mercenaries and attacks against the safety of air, maritime and land transport as well as of fixed platforms located on the continental shelf.

(b) What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Council of the Entente States has concluded an agreement on transborder crime.

The Government of Benin has also established a National Commission to control the proliferation of light weapons, in implementation of the provisions of a convention signed under the aegis of the Economic Community of West African States (ECOWAS). The procedure for the installation of this body is already under way.

As a State member of the International Criminal Police Organization (ICPO)-Interpol, Benin exchanges information with the other member States within the context of security cooperation.

(c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Asylum-seekers in Benin are investigated and undergo a selection process. They are granted asylum only on condition that they do not, or do not intend to, engage in activities which are incompatible with their status. An eligibility committee rules on the files of applicants before granting refugee status. This procedure limits the possibility of granting asylum to persons belonging to terrorist groups.

The eligibility committee has, in a number of cases, refused to grant refugee status to applicants who have not met the conditions relating to character and moral standards required by Beninese regulations.

As a general rule, criminals are not allowed to enter the territory of Benin.

There have been cases where refugee status has been withdrawn because the individuals concerned had engaged in activities which were incompatible with their status.

(d) What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Under Beninese legislation, foreigners arriving in the national territory must report to the immigration services within 48 hours of their arrival in Benin.

The right to stay in Benin is granted only after their files have been accepted by the competent agencies. Any person whose file is not in order, or who is of dubious moral standards or is a recognized criminal faces immediate expulsion.

(e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The entire paragraph 2 of the draft Penal Code referred to in paragraph 2 (a) above concerns terrorism. According to article 92 of the draft Code, "any act of terrorism is punishable by the death penalty".

No offence has been prosecuted on that basis.

(f) What procedures are in place to assist other States? Please provide any available details of how these have been used in practice.

The police services of Benin assist the police services of other countries in criminal investigations. The courts execute letters of request issued by foreign courts.

Under reciprocal agreements, the competent services in Benin will carry out extraditions if necessary. There have been several cases, particularly with neighbouring countries (Nigeria, Ghana, Niger, etc. ...).

(g) How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?

Since the attacks of 11 September 2001, the following measures have been adopted:

- Definition of additional criteria for the preparation of passports;
- Stricter controls over the issuance of passports (compatibility of passports);
- Stricter verification of statements made by applicants;
- Increase in the number of border controls: establishment of special border police posts for the sole purpose of monitoring migratory movements;
- Computerization of the system for the issuance of identity papers and passports;
- The issuance of passports solely to their holders.

Paragraph 3

(a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

As indicated above, Interpol is the traditional channel for the exchange of information on criminal matters.

Benin, which is a party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, takes part regularly in the various meetings and training seminars of the Organization for the Prohibition of Chemical Weapons (OPCW) and respects its commitments under the Paris Convention. It is also a party to the Convention on light weapons and is implementing its provisions.

The importation of explosive materials is monitored on a regular basis by the Ammunition and Explosives Service of the Department of Public Safety.

Pursuant to the provisions of the Paris Convention on the Prohibition of Chemical Weapons, Benin has a National Authority for liaison with OPCW which is responsible for implementing the Convention. Exchanges of information take place within this framework and the Benin National Authority cooperates actively to put the Convention into practice in controlling the use of weapons of mass destruction.

(b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Benin cooperates consistently with the security services of the countries of the West African subregion to prevent criminal acts in general. Cooperation is carried out within the framework of ICPO-Interpol.

The Beninese judiciary is willing to accept and execute letters of request from foreign judges in the context of the fight against terrorism.

(c) What steps have been taken to cooperate in the area of terrorism, at the bilateral level?

No specific new measures have been taken to cooperate in the area of terrorism at the bilateral level. Benin has, however, taken part in various international conferences held on counter-terrorism. Thus, it participated in the Dakar summit meeting and signed the Dakar Declaration against Terrorism of 17 October 2001.

In Kuala Lumpur, from 1 to 3 April 2002, Benin participated in the work of the Extraordinary Session of the Islamic Conference of Foreign Ministers on terrorism and signed the Kuala Lumpur Declaration adopted at that session.

(d) What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

In the area of counter-terrorism, Benin had already signed and ratified The Hague Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970.

The four conventions and protocols on the safety and security of international civil aviation have been sent to the National Assembly so that ratification can be authorized.

The Government has also sent the following four Conventions, signed in New York during the special treaty-signing/ratification event from 10 to 16 November 2001, to the National Assembly for ratification to be authorized:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;
- International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
- International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997;
- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

(e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The ratification procedure for most of the conventions in question is already under way and the Government is seeking to obtain the necessary parliamentary authorization. While awaiting their incorporation into national legislation, the Beninese authorities, particularly the security services and the judiciary, are making an effort to prevent terrorist acts by more rigorous and continuous surveillance throughout the country, in the context of implementing the Security Council resolutions concerning counter-terrorism. These services are also willing to cooperate with other States in order to prosecute and suppress terrorist acts.

The Beninese services provide various foreign partners with relevant information on progress in the implementation of the Security Council resolutions concerning counter-terrorism on a regular basis. They also supply information on the difficulties encountered and the steps being taken to ensure that Benin plays a more effective part in the global coalition against terrorism.

(f) What legislation, procedures and mechanisms are in place for ensuring asylum-seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

This question has been covered under paragraph 2 (c).

(g) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

In the draft Penal Code currently before the National Assembly, terrorism is an offence under ordinary law and is penalized as such.

Consequently, any relevant letter of request may be executed without any restriction. Until the new Penal Code is adopted, the provisions of the Bouvenet Code concerning criminal conspiracy allow a judge to take action on requests for extradition without any reference to political motivation.

Paragraph 4

The Minister of the Interior, in collaboration with other Departments concerned, is planning in the near future to create a central counter-terrorism office, the principal responsibilities of which will be:

- Surveillance of the national territory;
- The exchange of information on terrorist networks;
- The search for information specifically related to terrorism;
- The suppression of terrorism.

In this connection, the following is a summary of the needs for assistance expressed by the services concerned:

A. Training of experts

The training needs are as follows:

- Approximately 20 experts in counter-terrorism;
- Approximately 20 experts in detecting false travel or identity documents;
- Approximately 10 experts in the financing of terrorism;
- Approximately 10 experts in the surveillance and control of mafia groups or associations;
- Advanced training in common law for a group of at least five judges;
- Organization of forums and exchange seminars on the law relating to terrorism and its suppression.

B. Equipment

- Computerization of the central counter-terrorism office (20 computers);
- 5 cameras and photographic equipment;
- 5 video cassette recorders;
- 5 copying machines;
- 10 4x4 patrol vehicles;
- 10 light patrol vehicles;
- 10 motorcycles;
- Research funds.

Also, following the creation of the National Committee against the proliferation of light weapons and in order to allow this agency to make an effective contribution to the fight against terrorism, it is important to provide it with adequate equipment. The needs are being evaluated and, if necessary, a request for assistance will be made.

Lastly, in the current context of the international fight against terrorism, the efficient operation of the Beninese National Authority of the Organization for the Prohibition of Chemical Weapons (OPCW) requires appropriate logistical and technical assistance.

Owing to budgetary constraints, the Government will be unable in the near future to assume the financial implications of the est. .shment of the central counter-terrorism office and the appropriate implementation of the two Conventions mentioned above. The assistance of the United Nations would be desirable, as indicated in paragraph 4 of the guidelines for the submission of reports on counter-terrorist measures prepared by the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

Cotonou, 14 April 2002